

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

KASHNER DAVIDSON SECURITIES)	
CORPORATION, et al.)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 05-11433-MLW
)	
STEVEN MSCISZ, et al.)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR RECONSIDERATION

Pursuant to Fed. R. Civ. P. 7(b) and Local Rule 7.1, Defendants Steven Mscisz, Mark Mscisz, and Lynda Mscisz ("Defendants") respectfully request that this Court reconsider its Order that the above-referenced matter be remanded to the Financial Industry Regulatory Authority for further proceedings. In support of this Motion, Defendants state as follows:

1. On November 30, 2006, Judge Joseph L. Tauro entered judgment in favor of Plaintiffs Kashner Davidson Securities Corp., Victor Kashner, Matthew Meister, and Timothy Varchetto (collectively "Plaintiffs").
2. On June 27, 2008, the United States Court of Appeals for the First Circuit reversed the District Court judgment stating: "[t]he decision of the district court is reversed, and the matter is remanded to the district court for entry of an order vacating the [NASD] arbitration award." *See* Docket No. 35.
3. On July 15, 2008, this matter was reassigned from Judge Tauro to Judge Wolf for all further proceedings. *See* Docket No. 38.
4. On July 24, 2008, the First Circuit issued a Mandate directing this Court for entry of an order vacating the arbitration award. *See* Docket No. 39.
5. On August 20, 2008, this Court entered an Order vacating the arbitration award and remanding the matter to the Financial Industry Regulatory Authority ("FINRA") "for further proceedings consistent with the First Circuit's decision." *See* Docket No. 40.

**I. THE FIRST CIRCUIT JUDGMENT DOES NOT
DIRECT THE DISTRICT COURT TO REMAND THIS
MATTER TO FINRA FOR FURTHER PROCEEDINGS.**

The District Court Order states that “the arbitration award is VACATED and the matter is REMANDED to the Financial Industry Regulatory Authority for further proceedings consistent with the First Circuit’s decision.” *See* District Court Order [Docket No. 40]. The First Circuit Judgment, however, does not contain any language directing this Court to remand the matter to FINRA for further proceedings. Rather, the Judgment simply states “[t]he decision of the district court is reversed, and the matter is remanded to the district court for entry of an order vacating the arbitration award.” *See* Judgment [Docket No. 35] (emphasis added). Accordingly, Defendants request this Court to issue a revised Order consistent with the First Circuit’s decision -- that is, simply vacating the arbitration award.

III. CONCLUSION

For the foregoing reasons, Defendants respectfully request that this Court to grant their Motion for Reconsideration and enter a revised Order consistent with the First Circuit Judgment.

Respectfully Submitted,

Steven Mscisz, Mark Mscisz, and Lynda Mscisz,

By their attorneys,

/s/ John A. Sten
John A. Sten (BBO# 629577)
Jason C. Moreau (BBO# 648678)
GREENBERG TRAURIG LLP
One International Place, 20th Floor
Boston, MA 02110
(617) 310-6000

August 29, 2008

CERTIFICATE OF SERVICE

I, John A. Sten, hereby certify that a copy of the foregoing document filed through the ECF system, was sent to the following counsel of record via First-Class Mail on August 29, 2008.

Howard M. Smith

Newman & Smith
One Gateway Center
Suite 350
Newton, MA 02458
617-965-9900
Fax: 617-965-9697
Email: hms@hmsmith.com

Marc J. Ross

Sichenzia Ross Friedman Ference LLP,
1065 Avenue of the Americas, 21 floor
New York, NY 10018
212-930-9700

Richard J. Babnick, Jr.

Sichenzia Ross Friedman Ference LLP,
1065 Avenue of the Americas, 21 Floor
New York, NY 10018
212-930-9700

/s/ John A. Sten

John A. Sten